

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



February 13, 1992

ALL COUNTY LETTER No. 92-23

TO: ALL COUNTY WELFARE DIRECTORS
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL SDSS ADOPTIONS DISTRICT OFFICES

SUBJECT: ASSEMBLY BILL 548 (CHAPTER 1581, STATUTES OF 1990) AND
APPLICATION OF PLACEMENT PRIORITIES FOR FOSTER CARE
AND ADOPTION TO DEPENDENT CHILDREN OF THE COURT

Assembly Bill 548 (Chapter 1581, Statutes of 1990) amended laws affecting priorities for selecting foster care and adoptive placements. Because these placement priorities regarding dependent children of the court have been inserted in the Civil Code (CC) rather than the Welfare and Institutions (W&I) Code, the Department would like to advise agencies of the applicability of these new provisions to children who have been adjudged dependents of the court on or after January 1, 1989. (The new provisions in AB 548 do not present procedural issues regarding the adoptive placement selection process for children adjudged dependents of the court prior to January 1, 1989.) This letter also sets forth guidelines for implementing the adoptive placement priorities and reconciling them with W&I Code Sections 366.21, 366.22 and 366.26, Adoptions Program regulations, and long-standing adoption practices.

FOSTER CARE PLACEMENT REQUIREMENTS:

Pursuant to AB 548, CC Section 275 establishes a specific order of preference for the placement of a child in foster care. The child welfare services agency is required to consider the proximity of the birth parents to the proposed foster care placement in order to facilitate visitation and family reunification. In addition, unless it is not in the child's best interests, the foster care placement selection must be made using specified racial or ethnic background criteria.

The child welfare services agency is required first to make a diligent effort to locate an appropriate relative with whom to place the child in foster care. Before any child may be placed in long-term foster care, each relative who has been identified

as a possible caretaker must be evaluated by the child welfare services agency to determine the appropriateness of the placement. If, after 30 days from the time the child comes under the jurisdiction of the juvenile court, the child welfare services agency cannot find an appropriate relative with whom to place the child or if a relative placement is not in the child's best interest, the child welfare services agency shall place the child with foster parents of the same racial or ethnic identification as the child. If the child has a mixed racial or ethnic background, placement shall be with a family of the racial or ethnic group with which the child has the more significant contacts.

Placement with foster parents having a different racial background or ethnic identification cannot be made until application of the above criteria has failed to identify an appropriate placement. If the child is to be placed in a foster home of a different racial background or ethnic identification, there must be evidence in the home of sensitivity to the child's race, ethnicity, and culture. The child's religious background must also be considered in determining an appropriate placement. The child welfare services agency is permitted to search for an appropriate relative at the same time it searches for an appropriate foster family. The child is also permitted to remain in his or her current placement site while the search for an appropriate relative or foster family is being conducted. The decision of the child welfare services agency not to follow these criteria must be based on one or more of the following considerations: the request of the parent(s); the extraordinary physical or emotional needs of the child; or the unavailability of suitable foster parents for placement after a diligent search for foster parents who meet those criteria has been conducted.

The Department is currently in the process of revising Division 30 of its Manual of Policies and Procedures to reflect the requirements of AB 548.

ADOPTIVE PLACEMENT REQUIREMENTS:

Pursuant to AB 548, CC Section 222.35 (former CC Section 276) establishes a specific order of placement preference whenever a child is considered for adoptive placement. For 90 days from the time a child is relinquished for adoption or has been declared free from parental custody or control, the agency must search for a family that has the same racial background or ethnic identification as the child before considering placement with a family of a different racial background or ethnic identification. If the child has a mixed racial or ethnic background, placement shall be with a family of the racial or ethnic group with which

the child has the more significant contacts. Civil Code Section 222.36 establishes what is good cause not to follow the placement priorities. During the 90-day period, the agency must conduct a diligent search for a family that matches the child's racial background or ethnic identification. For purposes of conducting a diligent search, CC Section 222.37 directs agencies to use all appropriate resources, as necessary, in an effort to recruit a family through (a) use of all appropriate intra-agency and interagency, state, regional, and national exchanges and listing books; (b) child-specific recruitment in electronic and printed media coverage; and (c) use of agency contacts with parent groups to advocate for specific waiting children. Placement with a family of a different racial or ethnic background or identification cannot occur unless there is documentation that a diligent search was conducted.

Current Adoptions regulations at Title 22 California Code of Regulations Sections 35011 and 35015 require agencies to recruit families that reflect the identified racial, ethnic, cultural or religious background of the child whom the agency is placing for adoption. However, prior to AB 548 the regulations provided that agencies must search for an adoptive family of the same race or ethnicity as the child for 6 months before considering prospective adoptive families of a different race or ethnicity. The pre-AB 548 regulations basically listed and required all but one of the activities cited in CC Section 222.37 as processes which constitute a diligent search. The activity not included in the former regulations was the requirement for contacting parent groups regarding specific children. In addition, CC Section 222.37 slightly expands the requirement for presenting information on the child at exchange meetings of agencies to include state, regional and national exchanges. Consequently, the Department revised the regulations, effective August 2, 1991, to include this additional mandated activity and to shorten the mandated search period to 90 days. With these recent changes, current Adoptions Program regulations and practice are now consistent with statutory requirements.

Attached is a list and description of various processes and resources currently mandated or available to agencies to enable them to comply with AB 548 requirements. The processes and resources include information on photo-listing children. The Department has found that the mandatory photo-listing is extremely under-utilized by agencies. Therefore, agencies are reminded that Section 35015(a)(4) of Title 22 California Code of Regulations requires agencies to photo-list children as appropriate. Section 35017 requires the agency to photo-list each child who has been freed for adoption and whose case plan goal is adoption. Section 35017(c) specifies the process to photo-list the child who is not yet freed for adoption.

APPLICATION OF AB 548 PROVISIONS TO DEPENDENCY PROCEEDINGS:

In juvenile court proceedings, when the court orders a hearing pursuant to W&I Code Section 366.26 for children adjudged dependents of the court on or after January 1, 1989, an assessment of the child is also ordered. The assessment includes a preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent. At the "366.26" hearing, parental rights will be terminated only if the court determines by clear and convincing evidence it is likely that the minor will be adopted. A major factor which allows the court to make such a finding is the identification of a prospective adoptive family. When this determination is made, the parental rights of the child's birth parents will be terminated and the child will be referred for adoptive placement. For the child adjudged a dependent of the court prior to January 1, 1989, the parental rights can be terminated before the identification of a prospective adoptive family. Under AB 548, however, the 90-day search requirement for an adoptive family of the same race/ethnic identification as the child must be conducted after the relinquishment or the termination of parental rights has occurred. While the 90-day search requirement after relinquishment or termination of parental rights does not affect the court process for the child who was adjudged a dependent of the court prior to January 1, 1989, it does conflict with the court process for the child adjudged a dependent of the court on or after January 1, 1989.

Furthermore, W&I Code Section 366.26(j) gives the relative caretaker or foster parent preference with respect to the dependent child over all other applications for adoptive placement. The preference would occur if the child has substantial emotional ties to the relative caretaker or foster parent and removal would be seriously detrimental to the child's well-being. "Preference" is defined in this statute as the application of the foster parent shall be processed and, if satisfactory, the family study shall be completed before the processing of any other person's application for the adoptive placement of the child. AB 548, however, does not incorporate the placement priority given to foster parents.

Agencies must continue to satisfy the requirements regarding the adoptive placement preference afforded to relative caretakers and foster parents by W&I Code Section 366.26(j). Since W&I Code Section 366.26(j) is specific in its application to dependent children, the Department has interpreted this provision to take precedence over adoptive placement priorities in the CC. As stated above, AB 548 also established comparable placement priority criteria for court dependent children placed in foster

care. Therefore, few problems in reconciling the caretaker preference provisions of W&I Code Section 366.26(j) with CC Sections 222.35, 222.36 and 222.37 adoptive placement criteria should be encountered by agencies for children entering the court dependency system subsequent of AB 548 implementation.

In instances where the child is not going to be adopted by a relative caretaker or foster parent, efforts must be made to harmonize AB 548 with the requirements of W&I Code Sections 366.21, 366.22 and 366.26. Specifically, agencies must comply with the mandates of CC Sections 222.35, 222.36, and 222.37 to seek an adoptive family with the same racial background or ethnic identification as the child for the first 90 days of the 120 days allotted to complete the assessment required by W&I Code Sections 366.21(i) and 366.22(b). If a family of the same race or ethnicity as the child cannot be located within the 90-day period, the agency is then free to consider other adoption placement options during the 30 days remaining prior to the "366.26" hearing.

AB 548 does not include a specific funding appropriation to meet the costs of any increased activities above and beyond those currently employed and refers counties to the State Commission on Mandates for purposes of recovering unfunded mandated expenditures. Therefore, the Department has interpreted the search requirement in the context of limitations on existing resources. Because the statute reduces to 90 days the mandatory 6-month search period specified in current regulations, additional costs associated with more intense or expanded searches are assumed to be offset by the shorter period of activity required.

Questions on the above should be addressed to the Adoptions Policy Bureau at the above address or at (916) 322-4228 (ATSS) 492-4228.

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LOREN D. SUTER
Deputy Director
Adult and Family Services Division

Enclosure

cc: CWDA



ATTACHMENT

THE NATIONAL ADOPTION EXCHANGE

The National Adoption Exchange (NAE) is a nationwide adoption resource and referral agency. NAE maintains a computerized data base of families searching for children and children in need of adoptive placement. Even though their service is available to all families, individuals and children, on the child end, their focus is primarily special needs children. Through membership with NAE, clients, nationwide, register their respective clientele with the exchange and in turn the exchange conducts nationwide searches for such clients. If an agency is not registered with NAE, that agency is not included in the search process. The bulk of NAE's matching activities is performed electronically. Any agency can obtain access to NAE's data base information by becoming a member of the organization and by registering their families, individuals or children. Registration can be done manually (sending family/child information in printed form), but the preference is electronic registration. To electronically register children, individuals or families, an agency should acquire (buy or lease) an IBM compatible computer with a modem. Once established with NAE, direct access to its data base is achieved and any agency can electronically search for families and children, nationwide. Agencies can register clients by completing the attached NAE form and sending the information, along with a \$35.00 fee for each registration to: The National Adoption Exchange, 1218 Chestnut Street, Philadelphia, Pennsylvania 19107 (Telephone: (215) 925-0200).

PHOTO-LISTING SERVICE

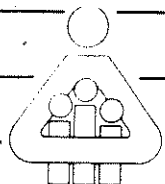
The children's photo-listing service is a mandated (Title 22 California Code of Regulations Section 35017) recruitment tool designed to give the public a visual sampling of the kinds of children available for adoption statewide. Adoption agencies, mainly public agencies, can register any child with a case plan goal of adoption by submitting an AD 909 form (attached) to the Department's Adoptions Branch, M. S. 19-31, and include a recent photograph. These listings are made available to all adoption agencies (statewide and nationwide), adoption support groups and any state, regional or national photo-listing services, upon request to the Adoptions Branch, M.S. 19-31, and at no cost to the requesting agency. All the above mentioned agencies/organizations automatically receive inserts as they become available via a mailing list established specifically for the service by the Adoptions Branch.

ADOPTION EXCHANGE ENHANCEMENT PROGRAM (AEEP-AKA MINORITY EXCHANGE)

The AEEP is designed to link the existing adoption exchange organizations by providing them with a more productive means of communicating, networking and identifying potential placements statewide. The Exchange is currently administered by Family Builders By Adoption, 1230 - 2nd Avenue, Oakland, CA 94606, (415) 272-0204. Under the direction of a Program Director, the Exchange Coordinator attends all adoption exchange meetings, compiles a listing of all minority children, families and individuals presented at each exchange meeting and disseminates these listings to all adoption caseworkers and recruiters, statewide at meetings and through the mail. From the compiled listings, the Exchange Coordinator identifies potential matches and defers these matches to the respective adoption worker. A family, individual or child becomes a part of the compiled listings only through the representation of an adoption worker. This is done either at one of the exchange meetings or via phone or written correspondence requesting that their child, individual or family be listed. If a family or individual is not in the assessment process for an adoptive placement, they will not appear in the compiled listings.

PARENT GROUPS

Parent Groups can obtain access to NAE's data base via membership. They do not receive copies of the Minority Exchange compiled listings, due to the issue of confidentiality of the contents.



NATIONAL ADOPTION CENTER

1218 Chestnut Street, Philadelphia, PA 19107 • (215) 925-0200

FAMILY REGISTRATION FORM

I. IN THIS SECTION, PLEASE TELL US ABOUT YOUR FAMILY.

Female Applicant:

Name _____
LAST FIRST

Date of Birth _____

Work Phone (AREA CODE) _____

Occupation/
Source of Income _____

Religion _____

Race/Ethnic Background (Please specify) _____

Male Applicant:

Name _____
LAST FIRST

Date of Birth _____

Work Phone (AREA CODE) _____

Occupation/
Source of Income _____

Religion _____

Race/Ethnic Background (Please specify) _____

Language(s) spoken (check all that apply)

English _____
Spanish _____
Other _____
Please specify _____

Language(s) spoken (check all that apply)

English _____
Spanish _____
Other _____
Please specify _____

Marital Status (check one)

Single, never married _____ Separated _____ Divorced _____ Widowed _____ Married _____ Date of Marriage _____

Home Address _____
STREET OR BOX NUMBER

CITY STATE ZIP CODE

Home Telephone (AREA CODE) _____

How many children have you raised or are now raising? _____

If there are children now living with you, please use the space below to tell us about them.

Child's Name	Race/Ethnic Background	Date of Birth	Boy or Girl	If adopted, date of placement

II. STATEMENT BY FAMILY.

Please attach a brief statement about your family. You can include your special interests, work experiences, community involvements, hobbies, the kinds of things you do together, your home and neighborhood. Be sure to note any skills, knowledge or experience with special needs children and with disabilities.

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For Office Use Only

III. IN THIS SECTION, PLEASE TELL US ABOUT THE KINDS OF CHILDREN YOU WOULD CONSIDER ADOPTING.

Preferred sex of child Male ☐ Female ☐ Either ☐

How many children would you consider adopting at this time? 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ or more ☐

Please write in the youngest and oldest ages of a child you would consider adopting.

Youngest Oldest

Some children have one or more disabilities that require medication, special equipment and/or care. Please check ☐ below any disabilities you would be willing to consider.

PHYSICAL DISABILITIES: None ☐ Mild ☐ Moderate ☐ Severe ☐

EMOTIONAL PROBLEMS: None ☐ Mild ☐ Moderate ☐ Severe ☐

MENTAL RETARDATION: None ☐ Mild ☐ Moderate ☐ Severe ☐

LEARNING DISABILITIES: None ☐ Mild ☐ Moderate ☐ Severe ☐

Please describe any special disabilities, physical characteristics and/or behavior you would be willing to consider such as a child on crutches or in a wheel chair, a child who is blind or deaf, a child with Down syndrome or cerebral palsy, a child who has been sexually active or has used drugs, etc.

Describe any conditions, physical characteristics and/or behavior you cannot accept.

IV. IN THIS SECTION, PLEASE TELL US ABOUT YOUR AGENCY.

Have you completed a home study and been approved for adoption? Yes ☐ No ☐

Or are you in study now? Yes ☐ No ☐ Expected date study will be finished

Name of Social Worker

Name of Agency

Address of Agency

STREET OR BOX NUMBER

CITY

STATE

ZIP CODE

Agency Telephone Number ()

Are you registered with any other adoption exchanges? Yes ☐ No ☐ Don't Know ☐

If yes, please specify which one(s)

V. CONSENT FOR NATIONAL ADOPTION CENTER TO MAKE REFERRALS.

I (we) consent to the National Adoption Center making referrals to adoption agencies and other sources on my (our) behalf. I (we) understand that these referrals may include, but are not limited to the National Adoption Center giving my (our) name and information about my (our) family to adoption agencies and exchanges.

SIGNATURE OF FEMALE APPLICANT

DATE

SIGNATURE OF MALE APPLICANT

DATE

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PHOTO LISTING DATA SHEET

INSTRUCTION: PLEASE TYPE

IDENTIFICATION NUMBER (FOR DSS USE ONLY)

NAME (LAST)		(FIRST)	(MIDDLE INITIAL)	STATE CASE NUMBER		DATE OF BIRTH	
<input type="checkbox"/> MALE	<input type="checkbox"/> FEMALE	RELIGIOUS PREFERENCE		SIBLINGS <input type="checkbox"/> YES <input type="checkbox"/> NO		HOW MANY Male(s) _____ Female(s) _____	
ETHNIC ORIGIN							
<input type="checkbox"/> WHITE	<input type="checkbox"/> BLACK	<input type="checkbox"/> HISPANIC		<input type="checkbox"/> NATIVE AMERICAN			
<input type="checkbox"/> ASIAN/PACIFIC ISLANDER	<input type="checkbox"/> MIXED BACKGROUND (Specify) _____						
LEGAL STATUS						AAP ELIGIBLE	
<input type="checkbox"/> TOTALLY FREE	<input type="checkbox"/> PARTIALLY FREE	<input type="checkbox"/> NOT FREE		<input type="checkbox"/> YES		<input type="checkbox"/> NO	
AGENCY NAME							
ADOPTIONS CASEWORKER				TELEPHONE ()		DATE (MONTH, DAY, AND YEAR)	

DESCRIPTION OF CHILD (DO NOT FOLD)

INSTRUCTIONS:

Complete the top portion for each child being photo-listed.

AGENCY ADDRESS, CASEWORKER'S NAME AND TELEPHONE NUMBER

Type the agency's name, the caseworker's name and the telephone number in the space provided.

DESCRIPTION OF CHILD:

Type the narrative description of each child being photo-listed within the preprinted brackets. If additional space is needed, continue the description on the reverse side within the preprinted brackets.